

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Mark Tucker,

Plaintiff,

vs.

ORDER

Civ. No. 13-3074 (MJD/LIB)

City of Duluth,

Defendant.

---

The above-entitled matter comes before the Court on Defendant's objections to the Order and Report and Recommendation of Magistrate Judge Leo I. Brisbois dated September 5, 2014 recommending that this matter be remanded to state court and denying Defendant's cross-motions to compel, for sanctions and for a modification of the scheduling order as moot and without prejudice.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based on the Court's de novo review the Court will adopt the Report and Recommendation and affirm the

Order.

**IT IS ORDERED:**

1. Plaintiff's Motion to Voluntarily Dismiss [Docket No. 28] is

**GRANTED.** Count I is hereby dismissed with prejudice;

2. Plaintiff's Motion to Remand to State Court [Docket No. 28] is

**GRANTED.** This matter is hereby remanded to Minnesota State Court, Sixth Judicial District; and

3. Defendant's Motion to Compel, Motion for Sanctions and Motion to Alter/Amend/Correct Orders [Doc. No. 39] is **DENIED as moot and without prejudice.**

**LET JUDGMENT BE ENTERED ACCORDINGLY**

DATED: October 16, 2014

s/Michael J. Davis  
Michael J. Davis  
Chief Judge  
United States District Court